

United States District Court

EASTERN DISTRICT OF WISCONSIN

**CONSENT
JUDGMENT IN A CIVIL CASE**

**HILDA L. SOLIS, Secretary of Labor,
United States Department of Labor,**

Plaintiff,

V.

CASE NUMBER: **10-C-176**

**STEVEN D. WESTRA,
PATRICK FLYNN,
DONALD F. THAYER, JR.,
individually and as Trustees to the Westra Construction Inc. Employee Stock
Ownership Plan, and
WESTRA CONSTRUCTION, INC. EMPLOYEE STOCK OWNERSHIP
PLAN,**

Defendants.

- ☐ **Jury Verdict.** This action came before the Court for a trial by jury. The issues have been tried and the jury has rendered its verdict.
- ☒ **Decision by Court.** This action came on for consideration and a decision has been rendered.

IT IS ORDERED AND ADJUDGED that judgment is entered in favor of the plaintiff and against the defendants on its ERISA complaint.

All current fiduciaries of the Westra Construction, Inc. Employee Stock Ownership Plan ("ESOP") are removed.

Larry Lefoldt, 690 Towne Center Blvd., Ridgeland, Mississippi 39157 is appointed as the independent fiduciary of the ESOP to administer the ESOP and to terminate the ESOP consistent with the ESOP's governing documents, the Internal Revenue Code, and the Employee Retirement Income Security Act of 1974 ("ERISA"), as amended, 29 U.S.C. §1001, et seq.

The independent fiduciary believes that his fees and expenses shall not exceed \$15,500.00. Prior to paying any independent fiduciary fees or expenses, the independent fiduciary shall present to the court an itemized fee application, including hourly rates of pay, and dates and hours of work, accompanied by a description of the work performed, as well as an itemized statement of expenses. The independent fiduciary shall provide to the Regional Director of the Employee Benefits Security Administration (“EBSA”), 230 South Dearborn, Suite 2160, Chicago, Illinois 60604 (“EBSA Regional Director”) a copy of said fee application when it is filed with the court. Absent objection from the Secretary within fifteen (15) business days, the fee application shall be deemed approved and paid from the assets of the ESOP. If the Secretary objects, the court will decide whether the independent fiduciary’s fee/expense request should be granted.

The independent fiduciary shall have and shall exercise full authority and control with respect to the management and/or disposition of the assets of the ESOP, including acceptance and distribution of any monetary payments made by the defendants pursuant to any agreement entered into by the defendants and the Secretary.

Upon final termination of the ESOP and distribution of the ESOP’s assets, the independent fiduciary shall provide proof of such termination and distribution of the ESOP’s assets to the EBSA Regional Director.

Each party shall bear his/her own attorneys' fees, costs, and other expenses incurred by such party in connection with any stage of this proceeding to date including, but not limited to, attorneys' fees which may be available under the Equal Access to Justice Act, as amended.

This action is hereby **DISMISSED WITH PREJUDICE**.

December 7, 2011
Date

JON W. SANFILIPPO
Clerk

s/ Linda M. Zik
(By) Deputy Clerk